

California School Boards Association

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FAIR POLITICAL  
PRACTICES COMMISSION

February 27, 2012

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Emelyn Rodriguez, Staff Counsel  
Fair Political Practices Commission  
428 J Street, Suite 620  
Sacramento, CA 95814

Re: Interested Persons Meeting re Conflict of Interest Codes for Charter Schools  
February 28, 2012

Dear Ms. Rodriguez:

On behalf of the California School Boards Association (CSBA), which represents nearly 1,000 school districts and county boards of education statewide, I am writing to express our views regarding the application of the Political Reform Act to California charter schools. This matter will be the subject of an interested persons meeting on February 28, 2012.

CSBA agrees with the Commission's long-standing advice that charter schools are local government agencies subject to the Political Reform Act and that charter school employees and officers are public officials subject to the Act. It is clear under the Education Code that charter schools are "deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys..." (Education Code, § 47612, subd. (a).) Charter schools educate thousands of students using direct appropriations of public moneys and promoting transparency through the mechanisms in the Political Reform Act is critical. CSBA believes that while there are several features unique to charter schools as educational agencies, the mandates of the Act.

Commission staff have asked for input on a few specific topics. The first is whether the charter school should adopt its own conflict of interest code or whether it should be incorporated into the code of the authorizing agency. The authorizing agency could be a local school district, a county board of education, or the State Board of Education. CSBA believes that it may not be practical for a local charter school to be incorporated into the conflict of interest code of an authorizing entity. Therefore the conflict of interest code should be prepared and adopted by the charter school in full compliance with the Act. Alternatively, the charter school can choose to be incorporated into the authorizing agency's conflict of interest code if it so desires.

The second point of input is the elements that are important to a charter school's conflict of interest code. We believe that the model conflict of interest code sent in the Commission's interested persons notice is a good example to be followed. The example complies with the Act and alleviates a potential concern that has arisen with several charter schools. Many charter schools are operated by nonprofit corporations. Those charter schools have

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sometimes promulgated conflict of interest codes that comply with the California Corporations Code's standards for officers and directors. These standards are not the same as those for public agencies. For example, the Corporations Code allows directors of a nonprofit corporation to be financially "interested" in a transaction. That standard does not comply with the Political Reform Act. Any regulations related to charter schools should specify that mere compliance with the Corporations Code is insufficient to comply with the Political Reform Act.

In summary, we support the Commission's efforts to clarify and codify its long-standing advice. CSBA believes that charter schools are local government agencies under the Political Reform Act and that full compliance with the Act's rules for adoption of a conflict of interest code and filing of statements of economic interests is a key transparency requirement. We look forward to providing additional comments and assistance as needed. Please do not hesitate to contact me if you have any questions.

Sincerely,

Brian M. Rivas  
Senior Legislative Advocate  
Governmental Relations

cc: Chair and Members, California Fair Political Practices Commission  
Vernon Billy, Executive Director, California School Boards Association  
Dennis Meyers, Assistant Executive Director, California School Boards Association

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